

Public Showing of a "Home Use Video"

digital-copyright Digest 1 Oct 2003 15:00:00 -0000 Issue 262
Topics (messages 603 through 605):
VHS movies - question
603 by: langval.hvcc.edu
604 by: John T. Mitchell
In The News
605 by: Olga Francois
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Date: Mon, 29 Sep 2003 20:30:56 -0400 (EDT)
To: digital-copyright@lists.umuc.edu
From: langval@hvcc.edu
Subject: VHS movies - question
Message-ID: <3605.151.103.27.60.1064881856.squirrel@webmail.hvcc.edu>

A question:

When a movie is purchased for home use, does the owner have a right to use that movie for a public showing, such as in a college theater, as long as no admission fee is charged?

(There were two questions in this email...the second was of no concern--gm 10/01/2003)

Many thanks,

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Troy, NY*

Date: Tue, 30 Sep 2003 13:14:17 -0400
To: <langval@hvcc.edu>, <digital-copyright@lists.umuc.edu>
From: "John T. Mitchell" <John@InteractionLaw.com>
Subject: RE: VHS movies - question
Message-ID: [002701c38776\\$4b47e740\\$0300a8c0@John](#)

1) There is no such thing, from a legal standpoint, as purchasing a movie "for home use." If you buy a legal copy of a movie, Section 109 of the copyright Act gives you the right to re-sell, lend, rent, trade, give away or throw away your copy without the copyright owner's consent, but gives no other copyrights to you. You can make "home use" of any copy without permission regardless who owns it, and **you need permission for a public performance, regardless who owns it.** (See Section 202 - the "copyrights" and the "rights to the copy" are separate.) References to "home use" generally refer to private (versus public) performance of the work. No one has an exclusive right to perform (**display**) a work privately. The right to perform a work privately is simply not one of the copyrights granted. If a copyright owner purports to license the showing of a movie in private, they are basically selling something they don't own. The copyright act's right to perform a work extends only to the right to perform the work publicly.

Coming back to question #1, then, whether you have a right to perform the work publicly is a question of license from the copyright owner, and has absolutely nothing to do with who owns the copy. (If I have **a license to show** the movie in a theater, I can even show a pirated copy without infringing the copyright. If I'm watching the movie privately, then it doesn't matter one whit whether I bought, borrowed, rented or stole the copy.)

October 1, 2003 email from listserve.